



**JUDICIAL INVESTIGATION COMMISSION**

City Center East - Suite 1200 A  
4700 MacCorkle Ave., SE  
Charleston, West Virginia 25304  
(304) 558-0169 • FAX (304) 558-0831

February 7, 2020

Re: JIC Advisory Opinion 2020-06.

Dear Judge :

The prosecuting attorney of a county located in your circuit is running for re-election. He has opposition for the 2020 primary. He is also a member of the Army National Guard. He has asked you to consider nominating him for the

Award. You have stated that if you are permitted to make the nomination you would not use any judicial letterhead and you would make the nomination solely in your capacity as a member of the military reserves. You want to know if you can nominate the prosecutor for the award.

To address your question, the Commission has reviewed Rule 4.1(A)(3) of the Code of Judicial Conduct which states:

**Rule 4.1 -- Political and Campaign Activities of Judges . . . in General**

- (A) Except as permitted by law, or by Rules 4.2, 4.3, and 4.4., a judge or a judicial candidate shall not: . . . .
- (3) publicly endorse or oppose a candidate for any public office;

Based upon the foregoing, the Commission is of the opinion that you cannot comply with the request in light of Rule 4.1(A) since the prosecutor is running in a contested primary. This is because members of the public might misconstrue, however wrong they may be, that by virtue of your nomination you are also endorsing the prosecutor in his/her upcoming election.

It is hoped that this opinion fully addresses the issues which you have raised. If there is any further question regarding this matter do not hesitate to contact the Commission.

Sincerely,



Alan D. Moats, Chairperson  
Judicial Investigation Commission

ADM/tat